

CONSTANTINE | CANNON

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NEW YORK, WASHINGTON

October 27, 2008

**VIA ECF**

The Honorable John Gleeson  
United States District Court Judge  
U.S. District Court for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Visa Check/MasterMoney Antitrust Litigation (CV-96-5238)(JG)(RLM)

Dear Judge Gleeson:

I write in response to the Court's October 24, 2008 Order directing Lead Counsel to advise the Court as to why our October 24, 2008 letter and attachment should not be publicly filed. The October 24 letter concerned a settlement of the claims dispute between Lead Counsel and a Class Member, Enterprise Rent-A-Car Company ("Enterprise"). Lead Counsel's October 24th letter attached: (1) a settlement agreement that reflected the amount of Enterprise's claim, and (2) a letter from an Enterprise executive containing non-public financial information that the company produced to Lead Counsel pursuant to a confidentiality agreement.

The August 16, 2005 Amended Plan of Allocation ("Amended Plan") requires the Claims Administrator's reports of Approved Claims and Notice of Distribution to be "confidential submission[s] under seal to Lead Counsel and to the Court (or, as directed, to the Special Master)." See Amended Plan at ¶ 10. Consistent with this section of the Amended Plan, Lead Counsel has filed under seal all correspondence with the Court concerning details of a distribution and/or containing individual merchant distribution amounts. By filing such documents under seal consistently throughout this case, Lead Counsel has preserved Class Members' confidentiality.

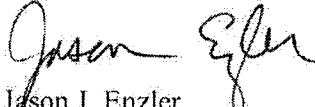
In conformity with this practice, Lead Counsel submitted under seal the terms of the settlement agreement with Enterprise and the October 24 request for payment because those documents contain information regarding Enterprise's distribution amount. This concern is of additional importance here, where Enterprise, a privately held corporation, has represented that data contained in Exhibit A to the settlement agreement is non-public, commercially sensitive financial information, which as noted above, Enterprise only agreed to produce to Lead Counsel after entering into a confidentiality agreement protecting the data.

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Respectfully submitted,

  
Jason J. Enzler

cc: Michael S. Kraut, Counsel for Enterprise (by electronic mail)  
Special Master Robin Wilcox (by electronic mail)